

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA,)	
THE STATE OF CALIFORNIA, THE)	
DISTRICT OF COLUMBIA, THE)	
STATE OF FLORIDA, THE STATE)	
OF HAWAII, THE STATE OF)	
ILLINOIS, THE COMMONWEALTH)	
OF MASSACHUSETTS, THE STATE)	
OF NEW MEXICO, THE STATE OF)	
TENNESSEE, THE STATE OF TEXAS,)	
AND THE COMMONWEALTH OF)	Civil Action No. 03-12366-DPW
VIRGINIA <i>ex rel.</i> LAUREN KIEFF,)	
)	
Plaintiffs,)	
v.)	
)	
WYETH PHARMACEUTICALS, INC.,)	
)	
Defendant.)	
_____)	
)	
UNITED STATES OF AMERICA et al,)	
<i>ex rel.</i> WILLIAM LACORTE,)	
)	
Plaintiff,)	
)	Civil Action No. 06-11724-DPW
v.)	
)	
WYETH,)	
)	
Defendant.)	
_____)	

**INTERVENORS VEZINA & GATTUSO, LLC AND BOONE & STONE'S
MOTION TO STRIKE SAKLA PARTIES' EXPERT WITNESS TESTIMONY**

Intervenors Vezina & Gattuso, LLC ("V&G") and Boone & Stone ("B&S") respectfully move to strike evidence offered by Sherif K. Sakla, M.D., J.D. ("Dr. Sakla") and The Sakla Law Firm, APLC ("TSLF") (collectively, Dr. Sakla and TSLF are referred to as "the Sakla Parties") in

the form of affidavits and deposition designations pursuant to the Honorable Douglas P. Woodlock's Order Regulating Non-Jury Civil Trial ("Order"). V&G and B&S ask the court to strike the portions of the following paragraphs within the affidavits of Douglas Chandler ("Mr. Chandler") and Basile J. Uddo ("Mr. Uddo") and the Sakla Parties' designated pages from the deposition of Dan Ciolino ("Mr. Ciolino"):

- Affidavit of Basil Uddo¹, ¶¶ 22-24, 27-44;
- Affidavit of Douglas Chandler², ¶¶ 7-8, 12, 14, 17; and
- All designations within pp. 68-69 of Dane Ciolino's deposition.³

V&G and B&S ask the court to strike portions of the testimony listed above for the following reasons:

- 1) The Sakla Parties lack standing to challenge the terms of the June 24, 2004 Contingency Fee Agreement ("June 2004 CFA") between V&G, B&S, the Sakla Parties and the client, Dr. William St. John LaCorte ("Dr. LaCorte") and it is ethically inappropriate for them to attempt to do so. *Lujan v. Defenders of Wildlife* 504 U.S. 555, 559-560 (1992); *Foley & Lardner, L.L.P. v. Aldar Investments, Inc.*, 491 F. Supp. 2d 595, 606 (M.D. La. 2007); *Thomas v. B.J. Titan Services Co.*, 675 So.2d 747, 750 (La. Ct. App. 1996); *Miller v. Jacobs & Goodman, P.A.*, 699 So.2d 729, 732 (Fla. Dist. Ct. App. 1997); *Saggese v. Kelley*, 445 Mass. 434, 441, 837 N.E.2d 699, 704-05 (2005).
- 2) The expert witness affidavits contain inadmissible expert opinions on the law of Louisiana and Georgia and unreliable factual determinations. *Snap-Drape, Inc. v. Commissioner*, 98 F.3d 194, 197-98 (5th Cir.1996); *United States v. Newman*, 49

¹ See ECF No. 685-7.

² See ECF No. 685-6.

³ See ECF No. 685-8 (p. 7).

F.3d 1, 7 (1st Cir.1995) (quoting *Marx & Co. v. Diners' Club, Inc.*, 550 F.2d 505, 512 (2d Cir.1977)); *Nieves-Villanueva v. Soto-Rivera*, 133 F.3d 92, 99–100, 48 Fed. R. Evid. Serv. 368, 1997 WL 775545 (1st Cir. 1997); Fed. R. Evid. 702, O.C.G.A. § 24-7-702(b), *Oliver v. Orleans Parish School Bd.*, 25 So. 3d 189 (La. Ct. App. 4th Cir. 2009).

As outlined in the attached Memorandum of Support, the above-enumerated paragraphs contain inadmissible evidence and V&G and B&S ask that this court strike all such testimony from the affidavits of Mr. Uddo and Mr. Chandler, and exclude the deposition designations of Mr. Ciolino containing the same.

Respectfully submitted,

**VEZINA & GATTUSSO, LLC and
BOONE & STONE**

By their attorneys,

/s/ Christopher R. O'Hara
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Dated: December 28, 2017

LOCAL RULE 7.1 CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), I, Christopher R. O'Hara, conferred with opposing counsel, William McGonigle, on December 21, 2017 in a good faith attempt to resolve or narrow these issues but the parties were unable to come to an agreement.

/s/ Christopher R. O'Hara

Dated: December 28, 2017

CERTIFICATE OF SERVICE

I, Christopher R. O'Hara, hereby certify that this document has been filed through the ECF system, will be sent electronically to the registered participants as identified on the notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this date.

/s/ Christopher R. O'Hara

Dated: December 28, 2017